

No. 4/5/2018-DGAD
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Anti-Dumping and Allied Duties
4th Floor, Jeevan Tara Building, 5th Parliament Street, New Delhi – 110001

Dated: 25th April, 2018

Trade Notice No. 08/2018

Subject: Streamlining of the Anti-Dumping Investigations/ Process – Application Format for Initiation of New Shipper Review.

Attention of the Trade and Industry is invited to Rule 22 of the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (“AD Rules”) framed thereunder as amended, which stipulates evaluating margin of dumping, for exporters not originally investigated. The Directorate receives various requests on this issue from time to time.

2. In order to streamline the process of filing application under Rule 22 of AD Rules, the Authority hereby prescribes an application format for initiation of New Shipper Review. This Application Format was felt necessary for proper assessment of eligibility of New Shipper in accordance with Rule 22 of AD Rules.
3. If initiated, the applicant producer/ exporter would also be required to file information as per the standard exporter’s questionnaire along with any other supplementary information based on submissions by various interested parties as considered appropriate by the Authority.
4. All interested parties are required to follow the enclosed application format for filing any new request for initiation of New Shipper Review after the date of issuance of this notice.
5. This Trade notice will supersede all previous instructions or Trade Notices, if any, issued by the Directorate with regard to the aforesaid subject.


25.4.18
(Sunil Kumar)

Additional Secretary & Designated Authority

Enclosed: Application format for initiation of New Shipper Review

To
All concerned

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT OF COMMERCE

ANTI-DUMPING

*APPLICATION FORMAT FOR
INITIATION OF NEW SHIPPER REVIEW*

DIRECTORATE GENERAL OF
ANTI DUMPING & ALLIED DUTIES

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India

FORM OF QUESTIONNAIRE

The Sections 9A, 9B and 9C of the Customs Tariff Act, 1975, as amended from time to time, and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (AD Rules), as amended from time to time, framed thereunder form the legal basis for anti-dumping investigations and for the levy of anti-dumping duties. These laws are based on the Agreement on Anti-Dumping which is in pursuance of Article VI of GATT, 1994.

GENERAL

1. The application format is to enable the Designated Authority to obtain the information from the New Exporter/Shipper in accordance with Rule 22 of the AD Rules.
2. This questionnaire is to be filled in by the new producer(s)/exporter(s) for initiation of New Shipper Review Investigations. It is in the interest of the producer (s)/ exporter (s) to reply to the questionnaire accurately and adequately and to attach supporting documents, wherever required.
3. The questionnaire is not of a "fill in type" and provides for submission of answers to the questions. The information provided should be strictly as per the application format and preferably in the same order as in the questionnaire and the declaration provided herein must be affixed. Wherever, the statistical and accounting data is required, the formats have been prescribed in the Appendices for presentation of data.
4. All documents and source material submitted in response to this questionnaire must be accompanied by an English translation.
5. All units of measurement and currencies used in Appendices and other information should be clearly identified.
6. The purpose of this questionnaire is to collect necessary information to ascertain whether the party applying for a new shipper review is eligible for the same. Once the new shipper review investigation is initiated, the new shipper would be required to fill up the detailed Exporters Questionnaire Response.

INSTRUCTIONS FOR FILLING FORMATS

1. The duly filled formats are to be filed along with the response. The entities related to you and engaged in production or processing or sale of PUC are also required to participate by giving relevant information as mentioned in subsequent paragraphs.
2. It must be ensured that all the information supplied is clearly marked either "Confidential" or "Non-confidential" at the top of each page. Information supplied without any mark shall be treated as non-confidential and the Designated Authority shall be at liberty to allow the other interested parties to inspect any such non-confidential information. Confidential information must be accompanied by non-confidential summary to the extent conducive to summarization. However, if the Designated Authority is satisfied that the request for confidentiality is not warranted or the supplier of the information is either unwilling to make the information public or to authorize its disclosure in a generalized or summary form, it may disregard such

information in accordance with Rule 7 of the AD Rules.

3. A copy of all non-confidential submissions shall be placed in a file, open for inspection by an interested party, on request, participating in the investigation in accordance with Rule 6(7) of the AD Rules.
4. An interested party supplying the information must ensure that the information supplied should clearly bear /marked name of the company at the top of each page.
5. The certificate at Appendix "A" must be attached with the response. You are also required to fill Appendix "B" in case any person/firm/company is being authorized to represent your interests in the investigation. Further, the legal representative is required to submit a declaration as given in Appendix-C.
6. Please provide two hard copies of Confidential and Non-confidential versions of the responses/submissions along with the soft copy of the Application Format filed for NSR initiation. Also provide all write-ups, explanations etc., preferably in MS Word file and all formats/appendix in MS Excel format.
7. In order to determine whether two parties are related, the definition as indicated in Rule 2(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 as given below may be taken into consideration:

Rule 2 (2): For the purpose of these rules, persons shall be deemed to be "related" only if -

- (i) they are officers or directors of one another's businesses;*
- (ii) they are legally recognised partners in business;*
- (iii) they are employer and employee;*
- (iv) any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them;*
- (v) one of them directly or indirectly controls the other;*
- (vi) both of them are directly or indirectly controlled by a third person;*
- (vii) together they directly or indirectly control a third person; or*
- (viii) they are members of the same family.*

Explanation I. - The term "person" also includes legal persons.

Explanation II. - Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other shall be deemed to be related for the purpose of these rules, if they fall within the criteria of this sub-rule.

COMPANY NAME:	CONFIDENTIAL VERSION/ NON-CONFIDENTIAL VERSION
<ul style="list-style-type: none">• Details of original Investigation:<ul style="list-style-type: none">✓ Final Finding No. and Date✓ Relevant Customs Notification No. and Date • Country(ies) concerned • Product Under investigation in the original investigation (PUC): • HS Code(s); • Period of investigation of the original Investigation (POI):	

QUESTIONNAIRE

SECTION A: GENERAL

1. Please supply the following details of your company:
 - (i) Name:
 - (ii) Address:
 - (iii) Telephone:
 - (iv) Fax:
 - (v) E-mail:
 - (vi) Website:
 - (vii) Indicate the names of the persons to contact and designation

2. In case you appoint a legal representative to assist you in this proceeding, Please give:
 - (i) Name of legal representative:
 - (ii) Address:
 - (iii) Telephone:
 - (iv) Fax:
 - (v) E-mail:

3. Describe the legal form of your company and state the legal statute of your country under which it has been established/registered/incorporated. In case there has been any change in the structure of your company, please elaborate every change in the last three years including *period of investigation in the original investigation (hereinafter referred to as "POI")*.

4. List the shareholders of your company who owned more than 5% of the shares during the period of investigation of the original investigation and list the activities of these shareholders in the following table:

Name Shareholder	of	Shareholding %	Activity shareholder	of

5. Name and addresses of all firms/joint ventures/companies, where the producer/exporter (along with relatives, if any) holds shareholding of at least 5% or more.
6. Please state your period of accounting/financial year.
7. List the factories involved in production of the product under investigation, with complete address, telephone and fax numbers and E-mail address.

8. Address where the accounting records of the company are kept. If maintained in different locations, indicate details of all locations.
9. List of products produced/sold with HS codes in last 3 financial years. If the number of products is large, details of major products as per market share be provided.
10. Please provide the following details for the POI and next two financial years:
 - (i) Total turnover of your company.
 - (ii) Total turnover of the product under consideration of your company.
 - (iii) Turnover of the product under consideration exported to India (directly and indirectly).
 - (iv) Company's pricing policy for exports to India.
 - (v) Total production of product under consideration.
 - (vi) Production capacity available for the manufacture of the product under consideration.
11. Please provide the details in ANNEX-I as per the desired format.
12. Please provide the Annual Accounts of your company for POI, two financial years prior to POI and two financial years post POI.

SECTION B: PRODUCT UNDER CONSIDERATION

1. Details of Product under Consideration on which New Shipper Review is sought (complete product under consideration or specific product types/grades, as the case may be, to be mentioned).
2. In what way is your company involved in the making of the product under consideration? Please explain whether your company is a manufacturer and/or processor of the product under consideration.
3. Please describe history of your company and clearly state when you started the manufacture of the product under consideration.
4. Please describe the main raw material(s) purchased and used for the manufacture of the product under consideration.
5. Please describe your production and/or sales process from purchase of raw materials to shipment of final product.
6. Is your company:
 - (a) the owner of the production equipment (including machinery and building applied for the making of product under consideration) making the final product under consideration or these have been taken on lease/rent?
 - (b) Contracting the production of the final product under consideration to another manufacturer?
 - (c) Processing the production of the final product under consideration for another company?
 - (d) Please explain any change of activity of your company since the initiation of production of the product under consideration.
 - (e) Please submit following information (unit-wise for all units capable of producing PUC during POI with respect to original investigations):

Particulars	Unit	Date of commencement of commercial production	Production with own equipment	Production contracted with other manufacturer	Production processed for another company	Total production
Installed Capacity during POI						
Production of PUC during POI						
Production of PUC during the next financial year after the POI						
Production of PUC during the 2 nd financial year after POI						

SECTION C: EXPORTS TO INDIA

1. Did your company export the product under consideration to India directly or indirectly during the POI?
2. If the answer to Q.1 is yes, then:
 - a. Did your Company produce the product under consideration and export it to India during the POI?
 - b. Did your company purchase the product under consideration and export it to India during the POI?
 - c. Did your company export the product under consideration to India during the POI, having had it processed for your company by another company?
 - d. Did your company process the product under consideration for some other company and it was exported directly or indirectly to India during the POI?
3. Has your company been involved in the manufacture or sale of the product under consideration since the end of the POI in the original investigation?
4. Has your company been exporting the product under consideration to India since the end of the POI?
5. If answer to Q.No. 4 is yes, please confirm whether the goods exported to India are manufactured by your company or not?
6. If answer to Q.No. 4 is yes, please confirm whether your company is exporting the goods directly to India or any related/unrelated company is involved in the export chain to India. If any related/unrelated company is involved in the export chain to India, please request such related/unrelated company to also fill up this Questionnaire separately to extent relevant for such company.
7. Do you have a marketing office/commission/sales agent or any institutional mechanism for facilitating/undertaking exports to India? If yes, provide details.
8. Has your company entered into irrevocable contractual obligations to sell the product under consideration in India?
9. Has your company produced and exported or purchased and exported the product under consideration to India after the POI?
10. Is product under consideration processed for your company by another company after the POI or has your company processed product under consideration for another company for export to India after the POI?
11. Did your Company export the product under consideration to India directly or indirectly prior to the POI?

12. Please provide the following supporting evidence:

- a. Copy of your sales ledger during the POI
- b. List of monthly sales per country after the POI
- c. Articles of Association/Memorandum of Association
- d. Certificate of registration
- e. List of major shareholders of the company during the POI
- f. Membership certificates (Trade associations etc.)
- g. Export licenses, if applicable
- h. Production licenses, if applicable
- i. Sales routes of the product under consideration to India
- j. Production process of the product under consideration
- k. Evidence supporting the installed capacity of the plant for PUC
- l. Invoicing procedure for the product under consideration
- m. Brochure and general company documentation
- n. Two sets of export documents to India for exports made after POI and before the POI.
- o. Evidence of irrevocable contractual agreements of sales of the product under consideration to India
- p. Sample purchase invoices of production equipment for the purpose of manufacture of the product under consideration
- q. Sample purchase invoices of raw materials used for the purpose of the manufacture of the product under consideration

13. Please provide reasons if any of the aforementioned documents are not submitted.

SECTION D: RELATED PARTY INFORMATION

1. List of affiliated / related producers or exporters of PUC.
2. Details of exports made by related/affiliated producer/exporter during the POI of the original investigation. Have they been individually assessed for dumping margin?
3. Whether any raw material used in the production, processing or sale of product under consideration is procured from any related entity? If yes, kindly provide justification of pricing.
4. Details of all captive inputs used in the production, processing or sale of the product under consideration.
5. Is your company in any way related to any company subject to anti-dumping duty on the product under consideration?
6. Is your company in any way related to any company in the subject country who has exported the product under consideration to India during the POI either directly or indirectly?
7. If your company has any related company dealing with the production, processing, sale or purchase of the product under consideration after the POI, please give details.
8. If your related company was involved in the purchase, manufacture, process or sale of the product under consideration during the POI, then please give full details.
9. Is your company in any way related to any other company dealing with the product under consideration?
10. Did your company either during or after the POI acquire any company manufacturing the product under consideration?
11. Please provide the certified copies of:
 - a. Registration of the related company dealing with Product under Consideration.
 - b. Official list of members of the Board of the related company
 - c. Official list of shareholders of the related company
 - d. Certificate from the related company of not exporting the Product under Consideration to India during the Period of Investigation.

**CERTIFICATE BY THE CHIEF EXECUTIVE OF THE
COMPANY/DIRECTORS/PARTNERS OR THE PROPRIETOR OF THE FIRM**

(On Letterhead of the Company)

1. On behalf of the [name of the producer/exporter/related importer], it is hereby certified that I have read the attached submission of [name of the producer/exporter/related importer] dated _____ pursuant to request for initiation of new shipper review of the Anti-Dumping Investigations against the Product _____ originating in or exported from _____.

2. It is certified that the information contained in this submission is true, complete and correct to the best of my knowledge and belief. The same is based on the records of the company consistently made by the company. We have neither knowingly and/ or willfully concealed or misrepresented any material information nor made any material false statements to the Designated Authority. I am fully aware that in the event of any data/ information/ claim found to be contrary to the facts, the Designated Authority would have full discretion to reject our entire submission.

3. I/We also understand that we may be responsible, individually and severally, for the consequences of any deliberate or willful and/or fraudulent concealment, misdeclaration or misrepresentation by me/us in any manner whatsoever.

Name: _____

Signature

Designation: _____

Seal

Date: _____

Note: If this Certificate is signed by an Authorized Representative other than the Officers referred above, a copy of the authorization from the Competent Officer or the Chief Executive of the Company/ Directors/Partners or the Proprietor of the Firm or the Board of Directors be also attached.

APPENDIX-B

AUTHORISATION LETTER

We hereby appoint the following person/firm/company in India to represent us in filing the application for initiation of New Shipper Review and further procedure after initiation of the New Shipper Review investigation being conducted by the Designated Authority.

(Name, address, telephone, fax numbers and E-mail address of the person/firm who may represent you)

M/s _____ (name) is authorized, inter-alia, for the following:

1. To receive communications from the Designated Authority.
2. To make submissions on our behalf.
3. To appear for and on our behalf

(Please strike off whichever activity is not to be authorized)

Date _____

(Signature)

(Name/Title)

Note:

(1) This page should be completed and appended at the beginning of your submission.

(2) The certificate should be signed by Chief Executive of the Company/Director/Partner or the Proprietor of the firm/duly Authorized Representative of the company/firm filing response to this questionnaire.

APPENDIX-C

DECLARATION BY LEGAL REPRESENTATIVE

(On Letterhead)

I/We _____ counsel/s or legal representative/s to [name of the producer/exporter/related importer], certify that I/We have read the attached submission of [name of producer/exporter/related importer] dated _____ pursuant to request for initiation of new shipper review of the Anti-Dumping Investigations against the Product _____ originating in or exported from _____.

In my/our capacity as a legal representative/s, I/We have explained the basic provisions of the Indian anti-dumping laws to the party including the consequences of any deliberate or willful and/or fraudulent concealment, misdeclaration or misrepresentation by the said party in any manner whatsoever.

In my/our capacity as an adviser, counsel, preparer or reviewer of this submission, I/We further certify that the information contained in this submission is true, complete and correct to the best of my/our knowledge and belief and that it is based on the records of the company generally/ consistently made by the company and that I/We have not knowingly and/or willfully made any material false statements to the Designated Authority and am/are not party to any concealment, misdeclaration or misrepresentation by my/our clients.

Name: _____

Signature

Designation: _____

Name and Membership No. of the professional body
(e.g. ICAI, ICMAI, Bar Council), if any: _____

Seal

Date: _____

ANNEX I - REQUEST FOR NEW EXPORTING PRODUCER STATUS – PRODUCTION / SALES DATA

<i>INFORMATION REFERRING EXCLUSIVELY TO THE PRODUCT UNDER CONSIDERATION</i>	2nd Previous Financial Year	1st Previous Financial Year	POI [SPECIFY POI]	Financial Year Next to POI	Financial Year 2nd Next to POI
1. Production quantity (in units or weight, as applicable)					
2. Domestic sales a) quantity (in units or weight, as applicable) b) value in local or invoicing currency c) average unit price in local currency					
3. Sales for direct and/or indirect exports to India a) quantity (in units or weight, as applicable) b) value in local or invoicing currency c) average unit price in local currency <i>Please specify which figures correspond to sales of your own production, and which are sales of production of other companies.</i>					
4. Sales for direct and/or indirect exports to third countries a) quantity (in units or weight, as applicable) b) value in local or invoicing currency c) average unit price in local currency					
5. Total Sales a) quantity (in units or weight, as applicable) b) value in local or invoicing currency c) average unit price in local currency					